

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH DAKOTA
ROOM 211
FEDERAL BUILDING AND U.S. POST OFFICE
225 SOUTH PIERRE STREET
PIERRE, SOUTH DAKOTA 57501-2463

IRVIN N. HOYT
BANKRUPTCY JUDGE

TELEPHONE (605) 224-0560
FAX (605) 224-9020

To: South Dakota Bankruptcy Bar

From: Irvin N. Hoyt, Bankruptcy Judge



Date: June 3, 2004

Subject: Entry of General Order affecting fee applications
by a debtor's counsel in Chapter 13 cases.

Several local bankruptcy rules are being amended. The proposed changes were published in the State Bar's monthly newsletter. No comments were received. Most of the changes are technical in nature. You may review the amendments at: www.sdb.uscourts.gov/LocalRules/redlined%20proposed%20amendments.pdf. With one exception, the amendments will become effective August 1, 2004.

The exception is the proposed amendment to Local Bankr. R. 2016-1(c) to raise the \$1,000 minimum in fees a Chapter 13 debtor's attorney may charge before he or she has to file a fee application. That is the only amendment proposed by the Local Bankruptcy Rules Committee that I am not approving. Instead, a general order was entered today striking Rule 2016-1(c). Chapter 13 debtor's attorneys will now need to file a fee application in all cases.

There are several reasons for this change. First, Rule 2016-1(c) has not been well followed. We found a number of cases with plans confirmed in 2003 where a fee application should have been filed but was not. Further, the present local rule was not saving a great deal of paper work. A majority of Chapter 13 cases have fees over \$1,000, excluding the filing fee and sales tax, so most cases still required a fee application. Finally, Chapter 13, in the absence of Chapter 12, now covers a wide-range of cases. Consequently, appropriate fees vary greatly from case to case. A "one-size fits many" minimum fee is not practical at this time.

We will continue to monitor this issue during 2004. If re-implementation of a minimum fee is later warranted, a new local rule will be considered.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH DAKOTA

GENERAL ORDER PENDING AMENDMENT OF
LOCAL BANKRUPTCY RULE 2016-1

Pending formal amendment of Local Bankruptcy Rule 2016-1 to strike subsection (c),

IT IS HEREBY ORDERED that Local Bankruptcy Rule 2016-1(c) shall not apply with respect to any chapter 13 case filed on or after July 1, 2004. A debtor's attorney must file an application for compensation and reimbursement in any chapter 13 case filed on or after that date.

So ordered this 3rd day of June, 2004.

BY THE COURT:


Irvin N. Hoyt
Bankruptcy Judge

ATTEST:
Charles J. Nail, Jr., Clerk

by 
